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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/286,794	04/06/1999	MARK E. BAER	28076/SV703A	5439

7590 11/29/2001

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EXAMINER

BLOUNT, STEVEN

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 11/29/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09286794

Applicant(s)

Baer et al

Examiner

Blount

Group Art Unit

3726

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 9/10/01
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 29-48 is/are pending in the application.
- Of the above claim(s) 39-48 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 29-38 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 29-48 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 29, 32, 33, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent 3,440,836 to Petersen.

With regard to claim 29, note motor shaft 12, and shaft extension 42, and lower assembly 38.

Claim 32: Note the compartment within shaft 40.

Claims 33-34: note threaded, hexagonal nut 32 in figures 1-2.

3. Claims 29, 35, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent 4,002,029 to Jones.

With regard to claim 29, Jones teaches first and second non-circular (finned) geometries 40 and 36 which interengage, as well as motor shaft 36 and its extension 52, said extension installed into a pump.

With regard to claim 35, the lower assembly is a pump.

With regard to claim 36, member 52 is a bearing. See also col 2, lines 60+.

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being obvious over either Petersen or Jones (as described above).

Petersen and Jones teach the invention as described above but do not teach the use of a square or hexagonal cross section for the first surface geometry.

The cross section for the first surface geometry is a matter of design choice, well within the ordinary skill of the art, wherein no stated problem is solved or any new or unusual result achieved by using a square or hexagonal shape for the first surface geometry, as opposed to some other shape, (eg., slotted or splined) and one of ordinary skill in the art would have been motivated to provide the first surface geometry of either Peterson or Jones with a square or hexagonal shape, in view of the design choice noted.

7. Claims 37-38 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. patent 4,002,029 to Jones.

Jones teaches the invention as noted above, but does not teach the bearing to comprise a powdered metal bearing, or roller ball bearing. The choice of bearing is a matter of design choice, well within the skill of the art, and the type of bearing used solves no new problem or creates any

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new or unexpected result, and in view of this, one of ordinary skill in the art would have found it obvious to use powdered metal bearings of roller ball bearings for the type of bearing.

Contact Information

10. Official documents related to the instant application may be submitted to the Technology Center 3700 mail center by facsimile at (703) 305-3579/3580. Should Applicant desire to submit a DRAFT response to the Examiner by facsimile transmission, then Applicant should contact the Examiner at the number below for instructions concerning the transmission of DRAFT documents. Applicant is reminded to clearly mark any facsimile transmission as "DRAFT" if it is not to be considered as an official response. Examiner Blount may be contacted at the Patent Office between the hours of 9:00 am to 5:30 P.M. Monday through Friday.

11. Any inquiry concerning this communication should be directed to Examiner Steven Blount at telephone number (703) 305-0319.



DAVID P. BRYANT
PRIMARY EXAMINER

SB


11/15/01